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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

COMPANY PETITION NO. 939 OF 1999

In the matter of Papermaster Pens Pvt. Ltd. having its Registered Office, at 105, A/3, Dhanraj Industrial Estate, Sunmill Lane, Parel, Mumbai-400 013.

Shapoorji Pallonji Finance Ltd.
a Company Incorporated under
the Companies Act, 1956 and having
its Registered Office at
70, Nagindas Master Road,
Fort, Mumbai- 400 023. ...Petitioners.

Mr. Diveshy Juvekar a/w Mr. J. Gabriel i/by M/s. Humranwala & Co. for the petitioners.

None for the respondent.

CORAM : ANOOP V. MOHTA,J.

DATED : 7th September, 2007.

ORAL JUDGMENT:-

1. The petitioner, a financial institution has invoked Section 433, 434 and 439 of the Companies Act-1956, (for short, "the Act") as the respondent company at the relevant time was indebted to the petitioners to the tune of Rs.22,09,206/- (Rupees twenty two lacs nine thousand two hundred six only). Inspite repeated reminders and notices, there is no reply, even to the statutory notice dated 23/03/1998,

though duly served.

2. The averments made in the petition, even at the time of admission, remained uncontroverted.

3. None present for the company at the time of admission. None appeared for the respondent company though the matter is listed for final hearing on 31st August, 2007 and today again.

4. The affidavit of publication dated 20/02/2001 is part of the record. There is no objection received of any kind.

5. By order dated 28/06/2002 on the application filed by the petitioner, this Court has also appointed the provisional liquidator. That order also remained intact. There is no challenge made till this date to the order of appointment of provisional liquidator.

6. The petitioners company has also filed the summary suit for the said amount. The learned counsel appearing for the petitioner also makes a statement that the same suit has been decreed after due contest. The amount yet not recovered. The respondent company

failed to make a payment of the amount which is due and payable since the date of the statutory notice.

7. In view of this uncontroverted position on record and as the averments remained undisturbed and as the petitioner has made out the case as contemplated under this provision, I am inclined to grant the petition in terms of prayer clauses (a) and (b).

8. Resultantly, the petition is allowed in terms of prayer clauses (a) and (b).

9. However, the effect and operation of this order will come in force after two months. In the meantime, parties are at liberty to settle the matter.

10. The petition is, disposed of, accordingly.

(ANOOP V. MOHTA, J.)